

Fresno, California

October 31, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
Jon Ruiz and Bruce Rudd, Assistant City Managers
James Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Kimberly MacNeill, Pastor of Worship & Arts at Clovis Hills Community Church gave the invocation, and Councilmember Boyajian led the Pledge of Allegiance.

PROCLAMATION RECOGNIZING DANIEL LOWREY - ACTING PRESIDENT PEREA

Read and presented.

APPROVE MINUTES OF OCTOBER 24, 2006

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of October 24, 2006, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER BOYAJIAN - (1) Passing of inspirational "98 years young" neighbor Fred Vogel; and (2) Van Ness/Shields underpass clean up project and thank you to Volunteer Center, volunteers, District 1 staff, District 7 staff, Contractor Richard Gleeson, offices of Juan Arambula and George Radanovich, Councilmember Calhoun and the City of Fresno for all their work and support.

COUNCILMEMBER STERLING - (1) Commendation to Councilmember Boyajian for his leadership on the Van Ness/Shields underpass clean up project; and (2) halting of the Running Horse project and request staff look into opening up Kearney Boulevard and California Avenue due to inconvenience to drivers, with Councilmember Calhoun concurring and ACM Ruiz advising he would confer with staff.

COUNCILMEMBER CALHOUN - (1) Commendation to Councilmember Boyajian and his staff on the Van Ness/Shields underpass clean up; (2) thank you to City Clerk for meeting process explanation on the first page of the agenda for the public and/or speakers at Council meetings; (3) Strong Mayor Form of Government and request Council consider listing Mayor Autry's name on the Council agenda along with other City officials' names; and (4) request for status/time line for staff to submit the Utility Rate Commission's report, with ACM Ruiz responding.

PRESIDENT DUNCAN - (1) Concurrence with Councilmember Calhoun's compliment to the City Clerk; and (2) intention to schedule the Utility Commission's report on the agenda at the earliest date.

APPROVE AGENDA:

(10:15 A.M.) HEARING TO CONSIDER THE FORMATION OF A SPECIAL TAX DISTRICT (CFD NO. 2006-1, HUNTINGTON SEWER) AND AUTHORIZE THE LEVY OF A SPECIAL TAX TO FINANCE THE INSTALLATION OF SEWER IMPROVEMENTS IN E. HUNTINGTON AVENUE (*Continue to November 14, 2006, at 3:45 p.m.*)

Continued as noted.

(2:30 P.M.) CONTINUED HEARING TO CONSIDER DESIGNATING BUILDING 8, THE FORMER RETAIL SHED OF THE SUGAR PINE LUMBER COMPANY AT 7435 N. INGRAM AVENUE, TO THE LOCAL REGISTER OF HISTORIC RESOURCES (PINEDALE ASSEMBLY CENTER SITE/STATE HISTORICAL LANDMARK NO. 934, CAMP PINEDALE) (*Continue to November 14, 2006, at 5:15 p.m.*)

Continued as noted.

(2:45 P.M. #1) HEARING ON REZONE APPLICATION NO. R-06-47 AND ENVIRONMENTAL FINDINGS, FILED BY SOL DEVELOPMENT ON BEHALF OF GRANUM PARTNERS, PROPERTY LOCATED BETWEEN W. ALLUVIAL AND W. LOCUST AVENUES AND BETWEEN N. PALM AND N. INGRAM AVENUES (*Continue to November 14, 2006, at 5:30 p.m.*)

Continued as noted.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved as submitted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2006-474 - INTENT TO ANNEX FINAL TRACT NO. 5553 AS ANNEXATION NO. 11 TO CFD NO. 11, AND SETTING THE REQUIRED PUBLIC HEARING FOR NOVEMBER 14, 2004

(1-B) RESOLUTION NO. 2006-475 - INTENT TO ANNEX FINAL TRACT NO. 5669 AS ANNEXATION NO. 12 TO CFD NO. 11, AND SETTING THE REQUIRED PUBLIC HEARING FOR NOVEMBER 14, 2004

(1-C) RESOLUTION NO. 2006-476 - INTENT TO ANNEX FINAL TRACT NO. 5400 AS ANNEXATION NO. 13 TO CFD NO. 11, AND SETTING THE REQUIRED PUBLIC HEARING FOR NOVEMBER 14, 2004

(1-D) RESOLUTION NO. 2006-477 - 11TH AMENDMENT TO SALARY RES. 2006-257 AMENDING EXHIBIT 9, NON-SUPERVISORY GROUPS AND CRAFTS (IBEW)

(1-E) AWARD TWO ONE-YEAR CONTRACTS WITH PROVISIONS FOR TWO ONE YEAR EXTENSIONS TO CALGON CARBON CORPORATION IN THE AMOUNT OF \$500,000 FOR SECTIONS I, II, IV AND V, AND CARBON ACTIVATED CORPORATION IN THE AMOUNT OF \$87,000 FOR SECTION III, TO REMOVE AND/OR INSTALL GRANULAR ACTIVATED CARBON

(1-F) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH TECHNICON ENGINEERING SERVICES, INC., FOR SPECIAL INSPECTION AND MATERIALS TESTING SERVICES FOR THE ORGANIC UPGRADE PROJECT AT THE FRESNO CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF), AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-G) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH TETRA TECH, EM INC. FOR PREPARATION OF CEQA

DOCUMENTS RELATED TO THE PROPOSED BIOSOLIDS SERVICE CONTRACT, AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-H) AWARD A CONTRACT IN THE AMOUNT OF \$211,000 TO STEELCON, INC., FOR THE SAROYAN THEATER PLAZA IMPROVEMENTS

(1-I) RESOLUTION NO. 2006-478 - APPROVING THE FINAL MAP OF TRACT NO. 5272 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, E. CLUB HOUSE EAST OF N. COPPER RIVER AVENUE

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR, THE PLANNING & DEVELOPMENT DIRECTOR, THE PUBLIC UTILITIES DIRECTOR, AND THE FIRE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS

(1-J) APPROVE APPOINTMENT OF HARLENE WOODS TO THE EDISON II MERGER COMMITTEE - COUNCILMEMBER STERLING

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(2-A) APPROVE PROPOSAL FROM THE INTERAGENCY HOUSING TASK FORCE (IHTF) TO PHASE IN THE MARCH 2006 IMPACT FEE INCREASES ON A 20% PER YEAR BASIS OVER FIVE (5) YEARS FOR DEVELOPMENT IN THE INNER CITY - COUNCILMEMBER BOYAJIAN

Councilmember Boyajian gave an overview of the issue, all as contained in his memo to Council as submitted, stated this proposal would keep the inner-city development momentum going, clarified fees would only be deferred and liens would be placed on the property so the City would not lose any fee revenues, and made a motion to approve the proposal from the IHTF. Councilmember Sterling seconded the motion, thanked Councilmember Boyajian for following through, and added this proposal would make it workable for inner-city developers so affordability can be maintained.

Extensive discussion ensued. AMC Ruiz, Councilmember Boyajian, Planning & Development Director Yovino and Councilmember Sterling responded at length to questions, comments and/or concerns of Councilmembers Calhoun and Westerlund and/or clarified issues relative to how this proposal would tie into the current inner-city fee reduction program, if the boundaries were the same, concern with this program being an addition to the other reduced fee programs, need to look at the totality of City programs, fee reductions currently in place, concern with the different boundaries, concern that Pinedale, Highway City and Herndon are not included, need for a matrix and input from the Redevelopment Agency before approval, what fees would be deferred, who the deferral would be for, purpose of the deferral being unclear, developer Gary Mason being the architect of this idea, this proposal being another way of getting to the 10x10 plan, this being an incomplete picture based on material submitted, for more details, need a staff report on what is currently in place, and need to know how this program will be administered. Upon question of Councilmember Boyajian Mr. Yovino stated could work out a proposal/details (like the Homebuyers Assistance Program) and report back to Council in approximately 30-45 days. Councilmember Calhoun concurred with Councilmember Westerlund that collection would be a big issue and stated he was not prepared to vote this date, stated one developer driving this and the IHTF approving it did not mean Council had to follow it, and reiterated his concern that this proposal did not adequately address the other low-income/poverty areas in the city **(2 - 0)**. Mr. Yovino, Councilmember Boyajian and City Attorney Sanchez responded to questions of Acting President Perea, Councilmember Westerlund and President Duncan relative to the process, who would ultimately pay the deferred fees, Mr. Yovino clarifying specific details would have to be worked out, support for moving forward in concept only and adding areas such as Highway City and Pinedale, liens and responsibility therefor, fiscal impact on the Development Department, the question maybe being how to raise the affordability designation, and if the responsibility for the lien would ultimately rest with the homeowner. President Duncan stated the builders would love this program as they would be able to defer fees and then pass that cost onto the homebuyer, stated taking action this date would be premature, recommended staff look into this and make a presentation to the IHTF before coming back to Council, and questioned if the motion-makers would amend the motion to have staff report back by December 12th. Councilmembers Boyajian and Sterling agreed to the request and Councilmember Boyajian clarified his intent was for the developer to be responsible for paying the deferred fee.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, staff requested to report back with an action item on the Interagency Housing Task Force's proposal on December 12, 2006, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes : None
Absent : None

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(9:00 A.M.) PUBLIC COMMENT PERIOD

(A) SCHEDULED COMMUNICATION - APPEARANCE BY LARRY LEININGER TO DISCUSS THE MAYOR'S GANG PREVENTION INITIATIVE

Not present when called.

(B) UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

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RECESS - 9:28 A.M. - 9:33 A.M.

(9:30 A.M.) DIRECT CITY ATTORNEY TO RETURN WITH AN ADDITION TO THE FRESNO MUNICIPAL CODE MAKING IT UNLAWFUL FOR ANY PERSON TO ENGAGE IN PROTEST ACTIVITIES WITHIN 300 FEET OF A CEMETERY, MORTUARY, OR CHURCH BEGINNING ONE HOUR BEFORE AND ONE HOUR AFTER THE FUNERAL OF A MEMBER OF UNITED STATES ARMED FORCES - PRESIDENT DUNCAN

President Duncan gave an overview of the issue, noted Federal Bill HR 5037 was approved unanimously by Senate and House representatives and was signed by the President but that federal law applied only to federal cemeteries and would not apply to public cemeteries here in the city, clarified this would not prohibit protestors from engaging in demonstrations, and stated he wanted the City Attorney to return with an ordinance so police officers will have the tool in place to keep demonstrators a safe distance away from funerals and requested Council's support.

Speaking in support of the issue were: Charlie Waters; William E. Dietsel, U.S. Air Force Veteran; George (last name inaudible), Retired Marine; and Gordon Pickett, U.S. Navy Retired.

President Duncan stated his inspiration for this came in May when he had the opportunity to spend two weeks in Iraq and witness the job that combat patrol soldiers do and how much they give to this country, reiterated this ordinance would not infringe on people's rights, and added the 300 foot distance was patterned after court-tested similar legislation relating to demonstrations at abortion clinics. Councilmembers Dages and Westerlund both expressed their strong support, stated matter this was so easy and so natural to approve, concurred people protesting at burials was unbelievable and indescribable, acknowledged the Veterans in attendance for the sacrifices they made, and Councilmember Westerlund requested members of the Coast Guard and Merchant Marines be included when the ordinance is written.

City Attorney Sanchez clarified issues and spoke to the background in terms of the developing law in this area, and responded at length to questions and/or comments of Councilmembers Calhoun and Boyajian and/or clarified issues relative to whether the legislation enacted by the 27 other states was comparable to this, if that legislation had been challenged, if the City's legislation would not be identical to the others, if Fresno's legislation would be the test case if challenged, what can be expected if it is challenged/what the cost would be, the process that will follow if this direction is approved, if the formal legal opinion provided in June would be looked at again, strong belief in First Amendment rights and respect for the military and sanction of funerals, new ground being tested and need for the City to be prepared, concern with the language "extremist" and how that term would be classified/defined, if the issue with protestors was disruption of services or opposition to subject matter of demonstration (i.e. opposition to war), freedom of speech rights, what interest will be protected, what the ability will be to protest, **(3 - 0)** and if privacy interest was more important than freedom of speech.

Councilmember Westerlund added it was his understanding the proposed ordinance would come back content neutral and added protecting the sanctity of a funeral and last rites was a compelling interest. Councilmember Sterling spoke to her family's funeral business and to the need to maintain the dignity of ceremonies and respect services, stated she has never experienced disruption at a service and she hoped that would continue, and stated the questions asked and comments made needed to take place and added the City Attorney would look at what needs to be looked at legally.

Mr. Waters spoke briefly to First Amendment Rights and to how the military fought for those rights.

On motion of Councilmember Dages, seconded by President Duncan, the City Attorney directed to return with an addition to the FMC making it unlawful for any person to engage in protest activities within 300 feet of a cemetery, mortuary, or church beginning one hour before and one hour after the funeral of a member of U.S. Armed Forces, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(10:00 A.M.) HEARING TO CONSIDER CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-05-73 AND ENVIRONMENTAL FINDINGS, FILED BY SOL DEVELOPMENT ON BEHALF OF TRANSTAR HOLDINGS, LLC, PROPERTY LOCATED ON THE NORTHWEST CORNER OF W. SHIELDS AND N. BRAWLEY AVENUES

1. CONSIDER AND ADOPT E.A. NO. C-05-73, DATED DECEMBER 29, 2005, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2006-479 - APPROVING CUP APPLICATION NO. C-05-73 TO CONSTRUCT A SHOPPING CENTER WITH A SUPERMARKET, A DRUGSTORE WITH DRIVE-THROUGH SERVICE, A FAST FOOD RESTAURANT WITH DRIVE THROUGH SERVICE, INLINE RETAIL SHOPS, A GAS STATION/FOOD MART BUILDING WITH A CANOPY FOR FUEL PUMPS, AND A DRIVE-THROUGH CAR WASH ASSOCIATED WITH AN AUTOMOBILE SERVICE STATION

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Chamberlain advised the staff report as submitted was complete and there was no new information to add.

Bill Robinson, Sol Development, requested approval.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Ms. Chamberlain, Mr. Robinson, Assistant Traffic Engineering Manager Jones and Planning Manager Unruh responded at length to comments and/or questions of Councilmembers Boyajian and Westerlund relative to desire to have seen the traffic study that was conducted, old country roads in the area and if any improvements/widenings would occur besides Shields and Brawley, if frontage roads would be constructed, if there will be buffers between the center and Fountain Way, access points/locations, traffic signals, stop signs within neighborhoods, if Sonora would be expanded, if the developer had any concerns with saturating the market, if the supermarket and drug store were still part of the project, development of street corners, placement/location of the FAX bus stop, the Variety Pak and park & rides, if this project was evaluated for a park & ride facility, and how the question of whether projects are being evaluated for park & rides will continue to be asked on all upcoming projects.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled E.A. hereby approved, and the above entitled Resolution No. 2006-479 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	Boyajian
Absent	:	None

(10:30 A.M.) ACTIONS PERTAINING TO THE ADOPTION OF A MUNICIPAL RESTORATION ZONE (MRZ)

1. CONSIDER AND ADOPT E.A. NO. ED-2006-01, FINDING OF CONFORMANCE WITH THE GENERAL PLAN MEIR

2. RESOLUTION NO. 2006-480 - ESTABLISHING A MUNICIPAL RESTORATION ZONE, ADOPTING A POLICY FOR THE ZONE, AND MAKING CERTAIN FINDINGS, as amended, adding a 15 year sunset clause

Interim Economic Development Director Johnson gave an in-depth overview of the issue and recommended approval.

Al Smith, on behalf of the Chamber of Commerce and businesses, spoke in support.

Councilmember Westerlund thanked Mr. Johnson and his staff and the Administration for all their work on this matter, and Mr. Johnson and AMC Rudd responded to his questions and comments relative to whether this was consistent with what was previously presented to Council (with Mr. Johnson clarifying there was a minor map to map and language changes relative to the 1% sales tax which was submitted as a red tag item), having a sunset provision to come to a conclusion on whether the program has been successful, if a sunset clause was considered, and if staff had any problem with a 10 or 15 year sunset clause. A motion and second was made to approve staff's recommendation and adopt the resolution as amended adding a 15year sunset provision with the program to be evaluated and reauthorized at that time.

Councilmember Sterling spoke in support stating this was a great opportunity to continue to bring much needed jobs to the community and eliminate unemployment and poverty on a continuous level, and spoke to the importance of providing incentives to develop in blighted/underdeveloped areas and added Council needed to be careful about adding sunset clauses and explained. President Duncan thanked staff for all their hard work and upon his question City Attorney Sanchez confirmed approval this date would set forth the structure and even though there was a 15 year sunset clause funding for the program would have to be approved yearly.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, the above entitled Resolution No. 2006-480 hereby adopted, *as amended, adding a 15 year sunset clause*, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

RECESS - 10:57 A.M. - 11:03 A.M.

(11:00 A.M.) DISCUSSION AND DIRECTION TO STAFF REGARDING A DEVELOPMENT MORATORIUM, A LIMITATION ON THE NUMBER OF DEVELOPMENT ENTITLEMENTS, AND ADOPTION OF MAJOR STREET IMPACT FEES - COUNCILMEMBER CALHOUN

1. DIRECT STAFF TO RETURN WITH OPTIONS INCLUDING THE PROCESS AND CRITERIA FOR PLACING A MORATORIUM ON NEW RESIDENTIAL AND COMMERCIAL DEVELOPMENT UNTIL THE ISSUE OF NEW STREET IMPACT FEES HAS BEEN ACTED ON BY COUNCIL

2. DIRECT STAFF TO RETURN WITH A POLICY ESTABLISHING AN ANNUAL LIMIT ON THE NUMBER OF DEVELOPMENT ENTITLEMENTS ISSUED

3. DIRECT STAFF TO RETURN WITH A RESOLUTION AMENDING THE MASTER FEE SCHEDULE ADOPTING THE MAJOR STREET IMPACT FEE AS SUBMITTED AND RECOMMENDED BY STAFF AND PREPARED BY MUNI-FINANCIAL

Councilmember Calhoun read his memo as submitted to Council into the record **(4 - 0)**, and made a motion to approve #1 as outlined above. Upon call, the motion died for lack of a second. Councilmember Calhoun made a motion to approve #2 as outlined above and upon his question, Planning & Development Director Yovino stated if the direction were to be approved staff could administer it. Upon call, that motion died for lack of a second. Councilmember Calhoun made a motion to approve #3 as outlined above stating it should have been done a long time ago, and upon call Councilmember Boyajian seconded the motion for discussion purposes.

Mike Prandini, Building Industry Association, stated progress was being made, relative to the motion stated if a date in December or January is set for return of the resolution that would be no problem as he felt the issue would be resolved by then, and stated he was opposed to the fees prepared, submitted and recommended.

Extensive discussion ensued. Assistant Development Director Bergthold, Planning & Development Director Yovino, Assistant Public Works Director Kirn and Mr. Prandini responded to numerous questions and/or comments of Councilmembers Boyajian, Westerlund and Sterling relative to the need to look at the entire picture and not just the raising of fees, what staff has been looking at, what the challenges are at this point, if there will be different fees for different areas, the study conducted by seven Fresno State PhDs not being precise but concern with the findings (i.e. individuals making huge profits in this city), the meetings held with stakeholders and who is present on the City and stakeholder sides, if affordable housing and non-profit reps attend the meetings, a big mistake being made when the meeting process with

stakeholders was not followed at the beginning, frustrations being understood but the matter now being on the right track, a number of Muni-Financial's assumptions missing the mark, willingness to delay action until December 12th and how confident staff was that fee recommendations would be presented that date, appreciation of the process now taking place and Councilmember Calhoun trying to motivate the parties, if staff considered the offer to double the fees, the understanding that all involved parties would be at the table and if the BIA was not initially included, how the current fee committee was formed, the work of the 10x10 and utility rate committees and if the fee committee will have time or feel it would be important to meet with them, if the fee committee feels it will have a conclusive report by December 12th considering what the other committees are doing **(5 - 0)**, and if a 15 year projection and integrating the entire city with inclusionary density would be more equitable and make a difference with fee calculations.

President Duncan requested staff set the impact fee item for 10:00 a.m. on December 12th and spoke briefly to the Fresno State study stating there was not a lot of attention given to it because it did not deserve it and added a conclusion should not be drawn on it because it was not a final study and explained. Mr. Prandini concurred stating there were a lot of bad assumptions based on limited information and advised according to FSU President Welty the study was not intended to go on the web as it was not complete. Councilmember Boyajian disagreed stating the study was conducted by seven professors who work in the areas of economics to real estate and expressed concern with downgrading them, and concurred their study was preliminary but stated it would have been nice if developers had answered their calls and worked with them.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to direct staff to return with a Resolution amending the MFS adopting the major street impact fees as submitted and recommended by staff and prepared by Muni-Financial failed, by the following vote:

Ayes	:	Calhoun
Noes	:	Boyajian, Dages, Perea, Sterling, Westerlund, Duncan
Absent	:	None

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(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR - PROPERTY: SOUTHWEST CORNER OF BRAWLEY @ HERNDON UNDER NEGOTIATION: SALE OF SUBJECT PROPERTY

(B) JOINT SESSION WITH THE REDEVELOPMENT - CONFERENCE WITH LEGAL COUNSEL/DECIDING WHETHER TO INITIATE LITIGATION/SIGNIFICANT EXPOSURE TO LITIGATION: REDEVELOPMENT AGENCY V. OLD ARMENIAN TOWN, LLC.

President Duncan announced Item "B" was removed from the agenda and advised Council would go straight into closed session at 2:30 p.m., and City Attorney Sanchez announced Item "A".

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LUNCH RECESS - 12:08 P.M. - 2:30 P.M.

(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR - PROPERTY: SOUTHWEST CORNER OF BRAWLEY @ HERNDON; UNDER NEGOTIATION: SALE OF SUBJECT PROPERTY

The City Council met in closed session in Room 2125 at the hour of 2:30 p.m. to consider the above matter and reconvened in regular open session at 3:09 p.m.

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(2:45 P.M. #2) HEARING ON PLAN AMENDMENT APPLICATION NO. A-06-10 AND ENVIRONMENTAL FINDINGS, FILED BY THE CITY OF FRESNO PLANNING & DEVELOPMENT DEPARTMENT, PROPOSING TO UPDATE APPENDIX W OF THE GENERAL PLAN AND WEST AREA COMMUNITY PLAN, GENERALLY BOUND BY FREEWAY 99 TO THE EAST, N. GARFIELD AVENUE TO THE WEST, AND W. BELMONT AVENUE TO THE SOUTH

1. CONSIDER AND ADOPT A NEGATIVE DECLARATION FOR E.A. NO. A-06-10

2. RESOLUTION NO. 2006-481 - AMENDING POLICIES W-4-a, W-4-c, W-5-b, W-6-a AND W-6-d OF APPENDIX W OF THE GENERAL PLAN AND WEST AREA COMMUNITY PLAN

President Duncan announced the time had arrived to consider the issue and opened the hearing.

Planner Sorensen gave an in-depth PowerPoint presentation on the issue, all as contained in the staff report as submitted, advised all of the proposed changes were accepted by the West Area Committee (WAC) except for the amendment reducing the lot size to 5,000 square feet, and recommended the Resolution be approved.

Expressing concerns with the 5,000 square foot lot size, and/or offering suggestions/alternatives, and/or requesting residents be given time and an opportunity to present alternative proposals were: Margie Reisz, who submitted a petition into the record containing signatures of approximately 90 people concerned with the reduced lot size and questioned how many meetings were held with the community at large; Tom Lang, 5541 Columbia Dr. N., WAC member; Terry Cox, 3659 W. Floradora; Jeff Roberts, Granville Homes, 1396 W. Herndon, representing the BIA, who displayed graphics illustrating densities occurring in the area today and density scenarios if the drop-down is approved; Mike Prandini, BIA, who spoke in support of 4,000 SFLs as recommended by Mr. Roberts; Alan Hoffman, Fresno Metropolitan Flood Control District (FMFCD), who spoke to drainage concerns and ability to provide service; Mary Lou Ryder, Superintendent of Central Unified School District (CUSD), who spoke to challenges the district would face with increased densities; and Jacqueline Howett, 5537 W. Norwich.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

At the request of President Duncan, Planning & Development Director Yovino clarified issues and addressed comments made stating the Variety Pak was the document that created the 5,000 SFLs, stated density was a struggle but changes were needed to prevent sprawl, address the air pollution problem, preserve farm land, and because that was what the 2025 General Plan called for, acknowledged the west area and southwest Fresno had a higher percentage of medium density residential but clarified those areas also had other factors that needed to be taken into account as well and explained, stated land use decisions would never be made or proposed that would jeopardize the operations of the FMFCD and the CUSD, **(6 - 0)** and stated staff did not support taking the lot size down to 4,000 SF as suggested by the BIA and explained.

Extensive discussion ensued. Councilmember Sterling stated her major concern was getting a well-balanced community, especially in her district's area which she stated has been the most under served in the development area, elaborated on her concerns at length and emphasized the entire west area will have the highest densities with the smallest lot sizes which will result in ghettos and the selling of these properties to slumlords in the future, and reiterated the need to get to higher densities in a balanced way and requested action be delayed so staff can work with the community and further recommended the upcoming Variety Pak be adopted but without the 5,000 SFLs. Councilmember Calhoun stated he highly respected Councilmember Sterling but comments about ghettos and slumlords were inappropriate, stated this was very good planning and the Development Department would in no way contribute to debasing neighborhoods in the west area, and stated the City was doing the right thing to address the issue of sprawl and this was a very reasonable opportunity to make the city better and stop the leap-frogging. Councilmember Boyajian stated the west area was so bad and there were areas that were already ghetto, stated he was very disillusioned with the absence of a planning process for the area, the lack of talks with Fresno County, the lack of sidewalks for children, and the lack of infrastructure and further elaborated, and stated if this is approved there will be 73,000 more people added to the area and expressed further concern relative to the impacts.

Upon questions of Councilmember Dages, Mr. Yovino advised three meetings were held with the WAC and one was held with the Planning Commission, there were some developments currently in the area on less than 5,000 square feet, there were smaller lot sizes throughout every area of the city, a developer would still be able to build on a 10,000 square foot lot and explained, and there would still be "move up" opportunities in the area for residents. Councilmember Westerlund thanked everyone for their presence and input; stated the easy thing to do would be to continue with the status quo but that was not what the city needed to grow properly; spoke to the real problems of air pollution and sprawl, to how no one wants change in their area, to the general plan laying out higher densities, to his understanding of emotions, and to other cities that have built beautiful, quality homes on smaller lots; displayed a site plan for a project in his area on the overhead illustrating different lot sizes and stated there was a way to do this; and upon his questions Mr. Yovino confirmed analysis on the changes was done on the MEIR and staff was currently working on mitigation measures.

Councilmember Sterling stated she totally supported the project referenced by Councilmember Westerlund but asked where in the west area were there opportunities for developments of 12,000 or 17,000 square feet, spoke to the land use designation map for the west area and additionally to her concerns, clarified she had no problem with the higher densities and understood the need but was just asking that Council take a look at making limited sizes a law, stated the sky was not going to fall within the next twenty-five years and stressed it takes time to make things happen and further elaborated, and requested the time be given to work with the WAC further.

A motion and second was made to approve staff's recommendation. Mr. Yovino responded briefly to questions of Acting President Perea relative to why staff was not supportive of 4,000 SFLs, and how development could occur this date on a 4,000 SFL and what the hesitation was. President Duncan thanked staff for all their work, advised challenges that would be faced in implementing the general plan were discussed and this was one of them, and spoke to how 5,000 SFLs work very well and stated this was a good, positive change.

On motion of Councilmember Calhoun, seconded by President Duncan, duly carried, RESOLVED, the finding of a Negative Declaration for the above entitled E.A. hereby approved, and the above entitled Resolution No. 2006-481 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Perea, Westerlund, Duncan
Noes	:	Boyajian, Sterling
Absent	:	None

(3:00 P.M.) CONTINUED HEARING ON TEXT AMENDMENT APPLICATION NO. TA-06-02 - VARIETY PAK NO. 3

1. BILL NO. B-155 - ORDINANCE NO. 2006-154 (ALTERNATIVE B) - ADOPTING TA-06-02 AND ENVIRONMENTAL FINDINGS, INITIATED BY THE PLANNING & DEVELOPMENT DEPARTMENT DIRECTOR, AMENDING THE TEXT OF THE FMC ZONING ORDINANCE TO SIMPLIFY AND STREAMLINE THE CODE AND PROPOSING CHANGES, INCLUDING LANGUAGE REFERENCING AIRPORT SPECIFIC PLAN APPLICABILITY, AND ADDITIONS AS RECOMMENDED BY THE AIRPORT LAND USE COMMISSION, AS DIRECTED BY THE ADOPTION OF THE 2025 GENERAL PLAN TO BEST PROMOTE ITS IMPLEMENTATION (with the "drop-down" provision to continue for one year)

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Stiglich advised the staff report as submitted was complete, there was no new information to add, and recommended the Bill be adopted as introduced last week. President Duncan clarified Alternative "B" was introduced with the "drop-down" provision to take effect one year from introduction.

Speaking to the issue were: Mike Prandini, Building Industry Association, who stated there were still some issues outstanding but they would support Alternative "B" and monitor it to see how it goes; Case Lawrence, who spoke to S-L zoning stating it was designed to facilitate mixed-use development but did the opposite in the storage department and explained; Kevin Hamilton, support for the Variety Pak and thanked staff; Sara Hedgpeth Harris, representing Fresno Housing Alliance and the League of Women Voters, who thanked Council for their prior vote on the West Area, encouraged reconsideration of the multi-story storage units, and spoke in opposition to extending the effective date of the "drop-down" provision; and **(7 - 0)** Jose Luis Barraza, representing the Housing Partnership for the Disabled, 4243 E. Thomas, who requested Council consider the Plan A concept stating step-down was important to the concept of smart growth.

Upon call, no one else wished to be heard and President Duncan closed the hearing.

Upon the request of President Dages, Planning & Development Director Yovino spoke to Mr. Lawrence's comments and advised a Planning Commission workshop covered the issue of self-storage/mini-storage facilities and Mr. Lawrence presented his concept after that workshop, and advised it was a concept that could be studied but would need to be studied in the next series of text amendments.

Mr. Yovino and Mr. Stiglich responded to questions of Councilmembers Calhoun and Westerlund relative to how many projects will go through the process in the next year without the "drop-down" applied, if staff will have the ability to object/oppose some projects, how that process will work, where the one year "drop-down" provision was located in the text, and park & ride requirements. Councilmember Westerlund incorporated his comments on the prior West Area Plan changes in this discussion, and upon his question Mr. Yovino confirmed CEQA was required here and this was a conformity finding and was based on the MEIR. Mr. Yovino responded briefly to questions of Acting President Perea relative to the "drop-down" delay, staff's ability to oppose projects, and if staff anticipated they would oppose some projects. Acting President Perea expressed concern stating Alternative "B" with the one year phase-in was a compromise and stated to start opposing would break that agreement, and cautioned staff in that regard stating the one year phase-in needed to be honored and added he will be very disappointed to see staff start opposing projects.

On motion of Acting President Perea, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Bill No. B-155 adopted as Ordinance No. 2006-154, by the following vote:

Ayes : Calhoun, Dages, Perea, Westerlund, Duncan
Noes : Boyajian, Sterling
Absent : None

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(3:15 P.M.) REQUEST FOR RECONSIDERATION OF APPROPRIATION OF UNANTICIPATED GENERAL FUND REVENUES
1. RESOLUTION NO. 2006-482 - 31ST AMENDMENT TO AAR APPROPRIATING \$4,918,000 FOR VARIOUS PROJECTS IN THE GENERAL FUND; TRANSFERRING \$2,300,000 TO THE BLOSSER JUDGEMENT OBLIGATION DEBT SERVICE; TRANSFERRING \$3,500,000 FROM THE GENERAL FUND TO THE EMERGENCY RESERVE FUND; AND APPROPRIATING \$372,000 IN SAFER GRANT FUNDS IN THE FIRE DEPARTMENT FOR PERSONNEL COSTS

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, reconsideration of the above matter hereby approved, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes : Boyajian
Absent : None

President Duncan noted there was a staff presentation on the item last week and the matter was discussed thoroughly and called for public comment

Speaking to the issue were: Loran Harding, who spoke to the recommendation for a substantial utility rate hike that will be coming forth; Bill Milton, who spoke in support of funding the Fire Department to get to 4 firefighters per truck; and John Mitchell, 439 N. Chestnut, who spoke in support of funding the Fire Department.

Councilmember Calhoun stated the funding recommendations were generally quite good, stated there should always be room for compromise and consideration and requested a minor amendment be made to move \$300,000 from the Roeding bathroom appropriations and fund that project with Quimby Park funds, or take \$300,000 from funds earmarked for hiring the additional positions in the Fire Department if there will be a delay in hiring, to fund a pilot Train Wayside Horn project, stated this was a major quality of life and safety issue that Council has debated and spoke briefly to the problem of train horns and impacts to people in three Council districts, and upon his question City Manager Souza stated of the two funding alternatives he would choose the Roeding Park bathroom appropriation and not the Fire Department hires and explained. Councilmember Calhoun made an amendment to move \$300,000 from the Roeding bathroom project to fund a pilot Train Wayside Horn project, which was seconded by Councilmember Boyajian. Councilmember Calhoun continued and spoke to public safety capital projects, specifically the Fire Department's, stating they seemed to be a higher priority than others and more time sensitive, stated he supported the department's goals but he had a couple of concerns, and presented questions/comments relative to whether the large general fund obligation of 27 new positions was sustainable, bonding capital needs, debt service, and need for additional information from the Controller on the City's financial condition and ability to acquire additional debt, with Mr. Souza responding throughout. Upon question it was noted there was no motion on the floor to adopt the resolution as presented with City Attorney Sanchez advising an appropriate motion would be to adopt the surplus budget proposal as laid out with the amendment identified. Upon question of Councilmember Calhoun, Councilmember Boyajian stated he was only supportive of the amendment but not the entire proposal as submitted. Upon further question Mr. Sanchez clarified calling for a separate vote on each line item was procedural and the proper motion would be to divide the question.

A motion of Councilmember Calhoun, seconded by Councilmember Boyajian, to divide the question failed, by the following vote:

Ayes : Boyajian, Calhoun
Noes : Dages, Perea, Sterling, Westerlund, Duncan
Absent : None

Councilmember Calhoun stated he was very disappointed as he felt very strongly about the wayside horn.

Upon Councilmember Sterling's request Acting President Perea explained how the process worked and how consensus was reached on the spending plan. Acting President Perea, Councilmember Boyajian and Mr. Souza responded to questions of Councilmember Sterling relative to whether any considerations/requests made last week were not part of any member's initial request, if each Councilmember was to get a list of projects for Prop 42 funds, and what the process will be to implement this spending plan and funds. A motion and second was made to approve staff's recommendation. Councilmember Boyajian apologized stating the issue of rate hikes was something he thought of later, stated last week's discussion was good but he did not appreciate the thinking that one is being defensive or obnoxious for not voting a certain way, stated it seemed like there was no flexibility here when there should be as everyone had desires and priorities, spoke to the consequences of rate hikes and Measure "C" not passing and noting the election was one week away questioned if it was too much to ask to lay this matter over, **(8 - 0)** stated he was not trying to be a dissenter or anti-Fire Department but he felt like there was a rush to get this done, and stated he just wanted to see some flexibility and not have this "jammed down our throats".

Acting President Perea stated he was glad to see this here again, stated this plan looked at the big picture, a lot of important things were being done, and long-term needs were being addressed, and stated this was a very strong starting point and urged unanimous support. Councilmember Dages concurred and stated this was a good day as the Veterans, good planning, the Fire Department and Storyland/Playland were being supported. Councilmember Westerlund thanked his constituents that he spoke with on this proposal and those who contacted his office and provided input, and stated he appreciated the time and opportunity to consider the proposal and everyone's input. President Duncan stated he was proud of the committee and what they did stating this was a good proposal, and relative to the wayside horn stated that issue was not dead as staff was working on it and Council overall was supportive of addressing it adding he felt a pilot project was an important thing to do.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2006-482 hereby adopted, by the following vote:

Ayes	:	Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	Boyajian
Absent	:	None
Abstain	:	Calhoun

(3:30 P.M.) RESOLUTION NO. 2006-483 - 34TH AMENDMENT TO AAR 2006-253 APPROPRIATING \$2 MILLION IN TRAFFIC CONGESTION RELIEF PROGRAM FUNDS FOR STREET MAINTENANCE PROJECTS AND REALLOCATING \$500,000 FROM EXISTING FUNDS FOR THE PAVEMENT MANAGEMENT SYSTEM IN PUBLIC WORKS CAPITAL

City Manager Souza gave an overview of the issue, all as contained in the staff report as submitted, and spoke additionally to the funds and how they were earmarked. Assistant Public Works Director Kirn spoke further to the issue and to the pavement management system and responded to questions. A motion and second was made to adopt the resolution. Streets Manager Adams responded briefly to questions of Councilmember Boyajian relative to whether Council members will have the ability to provide input on projects, if a project work list was in place, and if this would alter the 7-year maintenance plan.

On motion of Councilmember Westerlund, seconded by President Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2006-483 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

(2-B) DISCUSSION/ACTION REGARDING ELIMINATION OF RESIDENTIAL SOLID WASTE GARBAGE BIN INSPECTIONS - COUNCILMEMBER DAGES

Councilmember Dages spoke to his and his neighbors' experience with the inspections, stated the City going through trash was not right and added other concerns were people going through recyclables for profit and the City now paying for "garbage police", stated he wanted this eliminated and felt people could be educated, noted the City was paying a company well to separate waste, and made a motion to eliminate the solid waste garbage inspections but not employees/positions. The motion was seconded by Acting President Perea and acted upon after lengthy discussion.

Assistant Public Utilities Director Andersen confirmed investigations on recyclables was occurring with notices of violation being issued but not necessarily any type of fining; advised currently there was 24.1% recyclable contamination on the residential side and 25.6% on the commercial side resulting in an extra cost of about \$277,000 to the City and upon question of President Duncan confirmed that cost is passed on to the ratepayers, and reiterated although the City was at the point of issuing violation notices there was an avenue to impose fines for repeat violators.

Councilmember Calhoun spoke to the Utility Rate Commission's concern with contamination and the resulting cost, stated this was a no-brainer, he was very supportive of inspections, and the notices of violation would catch peoples' attention and put a hammer over their head, and stated the motion was inappropriate and entirely wrong and questioned why the City should have a recycling program if people will be allowed to do the wrong thing. Mr. Andersen, Solid Waste Chief of Operations Weakley and Community Coordinator Wofford responded to questions of Councilmembers Boyajian, Westerlund and Sterling relative to the State mandate and where the City was on that, if a program was in place to reach the mandate, what the alternative would be if this program is eliminated, number of inspectors, if any complaints have been received since this program began, if other cities are conducting inspections, if warnings would be issued before fines, support for the program and educating people, cost of the program, if the \$277,000 cost was over the contract price, if the City could be fined if the reduction mandate is not reached, mandate time line, where the five inspectors would go if the program is eliminated, and when the study will be completed.

President Duncan thanked staff for the program and they would not have this program in place if they did not have to, spoke to contamination resulting in extra costs and preventing the City from its diversion rate which will likely result in a \$10,000 a day fine starting in January, stated things like must be done if costs for utilities are to be kept as low as possible, stated obviously contamination was occurring and the City needed to do a better job of educating people, and added staff should be commended and the necessity of this should be explained to people if they complain.

A motion of Councilmember Dages, seconded by Acting President Perea, to eliminate the residential solid waste garbage bin inspections failed, by the following vote:

Ayes	:	Dages
Noes	:	Boyajian, Calhoun, Perea, Sterling, Westerlund, Duncan
Absent	:	None

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President Duncan noted the November 14th agenda was going to be very heavy and requested the City Manager make staff available on Monday November 13th to respond to any questions Council may have so Tuesdays meeting can run more efficiently.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 6:08 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the ____14th____ day of _____November_____, 2006.

_____/s/_____ Jerry Duncan, Council President	ATTEST: _____/s/_____ Yolanda Salazar, Assistant City Clerk
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